

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35984

OHIO RIVER PARTNERS LLC—ACQUISITION AND OPERATION EXEMPTION—
HANNIBAL DEVELOPMENT, LLC

Decided: January 31, 2018

On September 5, 2017, Ohio Terminal Railroad Company (OTRC) filed a petition to defer operations by Ohio River Partners, LLC (ORP) on a rail line in Monroe County, Ohio, over which ORP was previously granted operating authority in this proceeding. OTRC, which claims to have an exclusive easement under state law to operate over the same rail line, argued that ORP may not exercise its operating authority until that state property and contract law dispute is resolved and the parties have negotiated joint interchange and operating protocols. On November 2, 2017, OTRC also filed a petition to partially revoke the exemption in Ohio River Partners Shareholders LLC—Exemption for Intra-Corporate Family Transaction—Ohio River Partners LLC, FD 36152 (STB served Nov. 1, 2017), which concerns ORP's merger with and into its corporate parent Ohio River Partners Shareholder LLC (ORPS). In that petition, OTRC sought conditions and clarification regarding ORPS's ability to exercise the operating authority previously granted to ORP.

In a decision served on December 22, 2017, the Board denied both petitions but clarified the scope of ORPS's operating authority under these proceedings. It also directed the parties to inform the Board whether they were interested in participating in Board-sponsored mediation limited to the development of interchange and operating protocols for potential joint use of the line at issue. See also Ohio River Partners LLC—Acquis. & Operation Exemption—Hannibal Dev., LLC, FD 35984, slip op. at 4 (STB served Apr. 1, 2016) (offering to facilitate discussions regarding interchange and operating protocols upon request).

ORPS and OTRC filed separate responses earlier this month indicating that they are willing to enter mediation concerning interchange and operating protocols. Norfolk Southern Railway Company, the line's connecting carrier, also responded that it is willing to participate in mediation as it relates to the development of interchange protocols.

Within 10 days of the service date of this decision, the Acting Chairman will appoint one or more Board employees to serve as mediator(s). Once appointed, the mediator or mediators will contact the parties to discuss ground rules and the time and location of any meetings. At least one principal of each party, who has authority to commit that party, shall participate in the mediation and be present at any session at which the mediator or mediators request(s) that the principal be present. The mediation period shall be 30 days, beginning on the date of the first

mediation session. 49 C.F.R. § 1109.3(b). The parties may request to extend mediation by mutual written requests of all parties to the mediation proceeding. Id. The mediator or mediators are instructed to inform the Board when mediation has ended, with or without a resolution.

It is ordered:

1. Mediation will be initiated as discussed above.
2. This decision is effective on its service date.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.